

U.S. Patent Application No. 10/723,376
Attorney Docket No. M-16842-4P (Formerly 356973-991201)

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REMARKS

Claims 1 and 13 have been amended to recite a heat seal, a non-gusseted portion of a side edge, and a zipper/slider for a reclosable fastener. Applicants' Specification as filed recites heat seals (*e.g.*, Specification, paragraph [0033]), and zippers/sliders as reclosable fasteners (*e.g.*, Specification, paragraph [0009]). In addition, original FIGS. 1-4 show bags having non-gusseted side edges. Accordingly, no new matter has been added.

The Double Patenting Rejection

Applicants' corrected terminal disclaimer, filed herewith, now correctly identifies the patents being disclaimed, and thus now overcomes the double patenting rejection.

The Rejections under 35 U.S.C. §§ 102(b), 102(e), and 103(a)

Applicants' claims have been rejected under 35 U.S.C. §§ 102(b), 102(e), and 103(a) as being either anticipated by, or unpatentable over, one or more of U.S. Patent No. 5,687,848 to *Scholz et al.* ("*Scholz*"), U.S. Patent No. 5,941,643 to *Linkiewicz* ("*Linkiewicz*"), U.S. Patent No. 6,164,826 to *Petkovsek* ("*Petkovsek*"), and U.S. Patent No. 3,387,701 to *Schneider et al.* ("*Schneider*"). Applicants respectfully traverse, noting that none of these references discloses every element of the claims as amended. More specifically, none of the references discloses a bag having a zipper-type or slider-type reclosable fastener located along a non-gusseted portion of a side edge.

Scholz

With reference to FIG. 12, *Scholz* discloses a bag with a magnetic strip 152. Accordingly, *Scholz* fails to disclose a reclosable fastener having a zipper or slider, and thus cannot disclose a zipper or slider that is located along a non-gusseted portion of a side edge.

Linkiewicz

Linkiewicz does not cure the deficiency of *Scholz*. The bag of *Linkiewicz* has a closure 48 along the top edge 42, which is sealed as shown in FIG. 5. Examiner correctly notes that it is possible to turn *Linkiewicz*' bag on its side. However, Applicants' claims as amended now recite a structural distinction from *Linkiewicz*: Applicants now define the top end of their bag as having a heat seal, where the reclosable fastener lies substantially parallel to a side edge

extending from that heat-sealed top end. Accordingly, even if the bag of *Linkiewicz* is turned on its side, the resulting "top edge" would be what was originally a side edge, and is not disclosed as having a heat seal. *Linkiewicz* thus fails to disclose a reclosable fastener oriented along a side edge, where the side edge extends from a top edge having a heat seal. *Linkiewicz* thus cannot disclose a reclosable fastener oriented along a side edge, where the fastener is a zipper or slider that is located along a non-gusseted portion of a side edge.

Petkovsek

Petkovsek also does not cure the deficiency of *Scholz*. *Petkovsek* discloses a bag with a resealable closure mechanism 141, gusseted inside edges 135, 136, and a pourable spout 112 (e.g., FIG. 5). It can be seen that the inside edges 135, 136 are gusseted (e.g., FIG. 5). Accordingly, *Petkovsek* does not disclose a fastener located along a non-gusseted portion of a side edge.

Schneider

As discussed previously, *Schneider* does not disclose a reclosable fastener or a pour spout. Accordingly, *Schneider* does not disclose a reclosable fastener located along a non-gusseted portion of a side edge.

As above, none of the references discloses every element of Applicants' claims as amended. The bag of *Scholz* has a magnetic strip 152. The bag of *Linkiewicz* discloses a closure 48 that extends along its top edge (not a side edge, as structurally defined in Applicants' claims). The bag of *Petkovsek* has a pourable spout 112 that extends along a gusseted section of a side. *Schneider* does not disclose a reclosable fastener or pour spout, at all.

Accordingly, Applicants' amended claims 1 and 13 are now patentable over each of these references for at least the reason that they recite a top end having a heat seal, and a first side edge that extends from this heat-sealed top end, where a reclosable fastener that is "at least one of a zipper or a slider" is "located along the non-gusseted portion of the first side edge" The remaining claims depend from either claim 1 or claim 13, and are thus patentable for at least this same reason.

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CONCLUSION

In view of the above, it is respectfully submitted that Claims 1, 2, 4, 10, 13-14, 16, 22, and 32-33 are now in condition for allowance.

The Examiner is invited to call Applicant's attorney at the number below in order to speed the prosecution of this application.

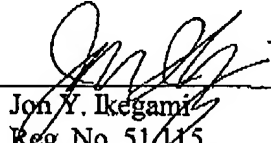
The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896.

Respectfully submitted,

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By


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